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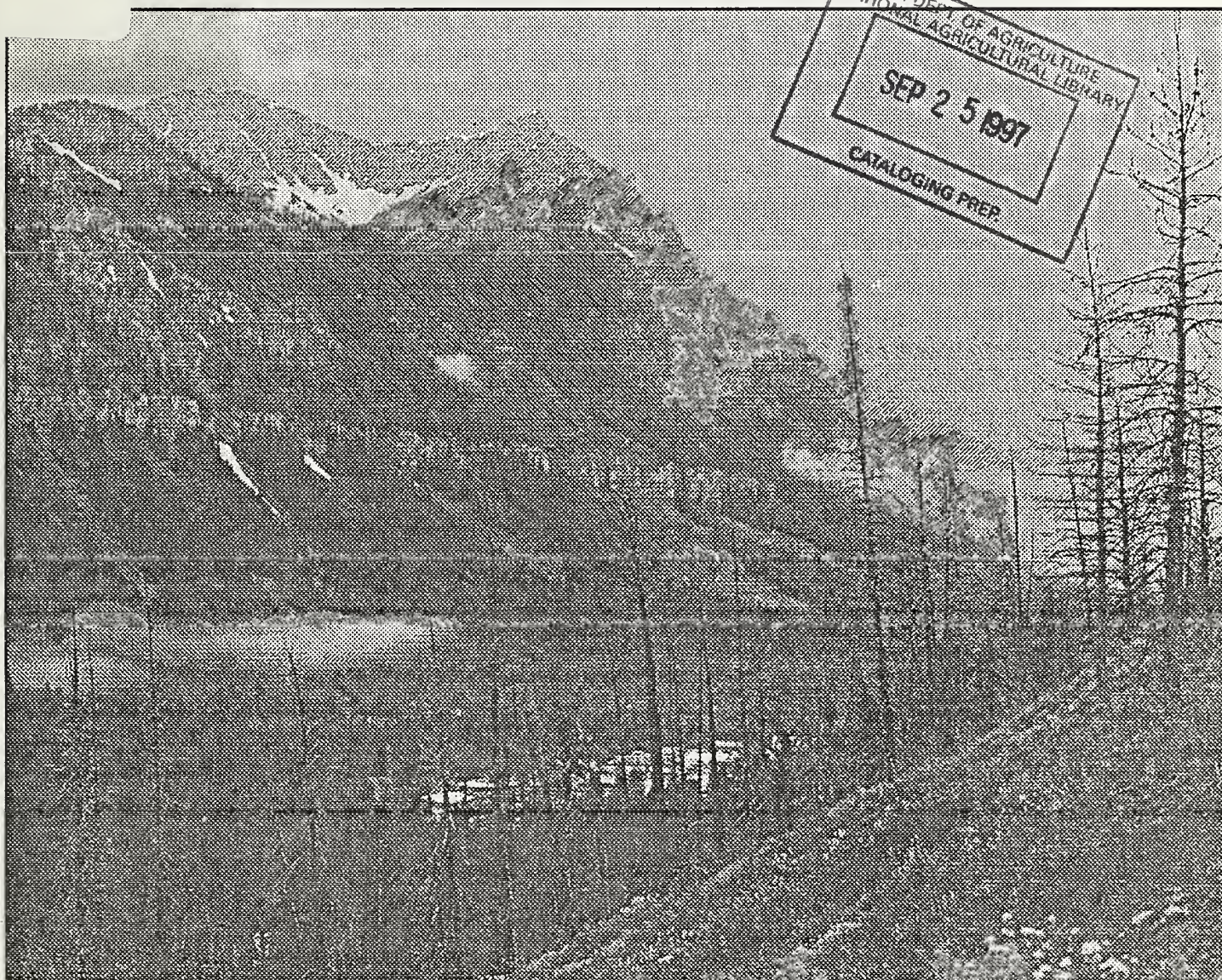


United States Department of Agriculture  
Forest Service  
Northern Region

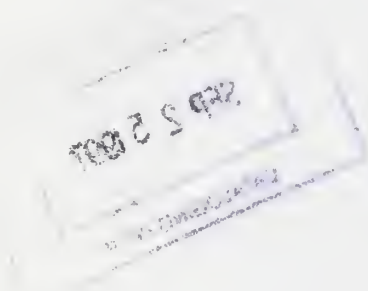
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## RECORD OF DECISION COOKE CITY AREA MINERAL WITHDRAWAL Custer and Gallatin Forest Plan Amendments Park County, Montana









United States Department of the Interior  
United States Department of Agriculture



AUG 12 1997

Dear Reader:

Enclosed is the Record of Decision (ROD) for the Cooke City Area Mineral Withdrawal. There are two decisions documented in this ROD:

**U.S. Department of the Interior:** As the Assistant Secretary of the Interior for Lands and Minerals Management, my decision is to withdraw from mineral entry, subject to valid existing rights, 22,065 acres of Federal land near Cooke City, Montana. (A complete legal description of the mineral withdrawal is contained in Appendix A of the Final EIS and will be provided in the Public Land Order.) The mineral withdrawal does not apply to private lands, nor does it affect valid existing rights associated with unpatented mining claims in the area. However, the mineral withdrawal applies to any lands or interests in lands acquired in the area by the United States during the 20 year withdrawal period. Any acquired minerals are also withdrawn from hardrock mineral leasing.

**U.S. Department of Agriculture:** As the Under Secretary for Natural Resources and the Environment, I concur with the decision to withdraw from mineral entry, subject to valid existing rights, 22,065 acres of National Forest land near Cooke City, Montana.

It is my decision to amend Appendix IV, Mineral Withdrawals, of the Custer National Forest Plan, and Appendix D, Minerals Management, of the Gallatin Forest Plan to include the Cooke City Area Mineral Withdrawal. National Forest lands on the Gallatin National Forest within the withdrawal area allocated to Management Area 24, minerals emphasis, are changed to Management Area 15, wildlife/recreation emphasis.

The rationale for these decisions is discussed in the enclosed document.

We wish to thank each of you who have shared your thoughts and concerns with us. We appreciate the time you took to participate with the team members who were responsible for conducting the analysis. Public and agency involvement throughout this analysis has played a key role in providing information about resource values and uses, and in improving the analysis.

For additional information on the mineral withdrawal and the Forest Plan amendments, please contact the Cooke City Area Withdrawal Team, P.O. Box 36800, Billings, MT 59107-6800 (406-255-0322).

Sincerely,

**BOB ARMSTRONG**  
Assistant Secretary of the Interior  
for Lands and Minerals Management

**JAMES R. LYONS**  
Under Secretary of Agriculture  
Natural Resources and Environment



MTM84500





# **RECORD OF DECISION**

## **COOKE CITY AREA MINERAL WITHDRAWAL CUSTER AND GALLATIN FOREST PLAN AMENDMENTS PARK COUNTY, MONTANA**

### **I. INTRODUCTION**

This Record of Decision documents the decisions and the associated rationale for the Cooke City Area Mineral Withdrawal and related amendments to the Gallatin and Custer Forest Plans. The Department of the Interior is responsible for the decision on the mineral withdrawal of approximately 22,065 acres of Federal land. The Department of Agriculture's concurrence for a mineral withdrawal is required. The Department of Agriculture is responsible for the decision on amendments to the Custer and Gallatin Forest Plans.

On August 25, 1995, President Clinton toured the site of the then proposed New World Mine near Cooke City, Montana, and expressed concerns about the potential effects of mining on the area's outstanding natural resources. Following the tour, the President declared a two-year moratorium on the location of new mining claims in the area, which was implemented by filing a petition to withdraw the described lands. The two-year moratorium provided time for completion of the Cooke City Area Mineral Withdrawal Environmental Impact Statement (EIS).

The USDA Forest Service, and USDI Bureau of Land Management, prepared the mineral withdrawal EIS. The Notice of Availability of the Final EIS was published in the Federal Register on July 11, 1997.

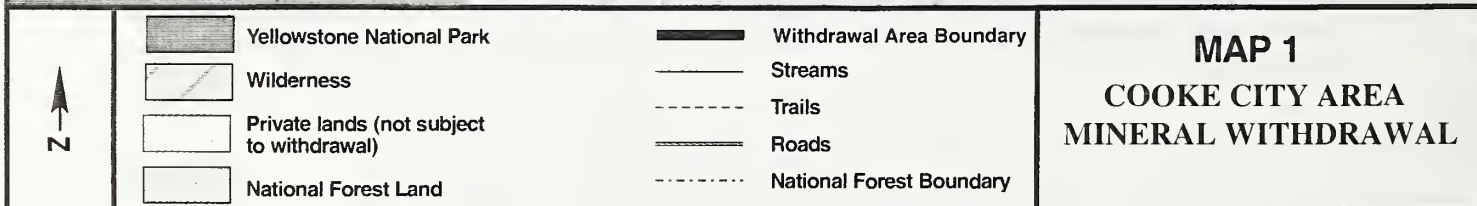
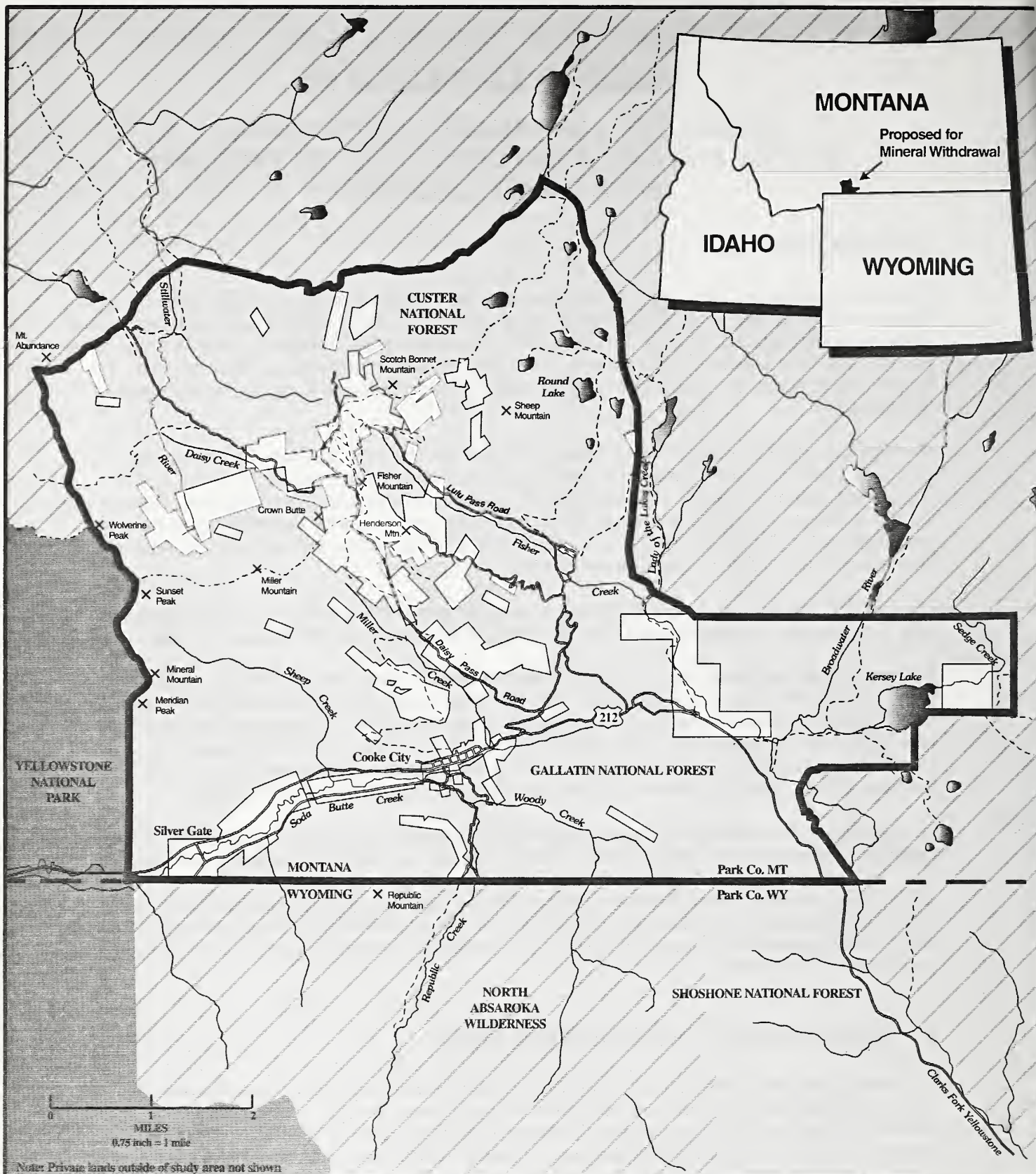
A mineral withdrawal is a formal order that withholds Federal lands and minerals from various forms of entry including the General Mining Law of 1872. Withdrawals are often implemented to limit mineral-related activities in order to maintain other resource values in the area. A withdrawal does not apply to private property, nor does it affect rights associated with valid, unpatented mining claims. If the mineral withdrawal for the Cooke City area is not approved by the Secretary of the Interior by August 31, 1997, the Federal lands within the area will automatically reopen to filing of new mining claims.

Amendments to the Custer and Gallatin Forest Plans are necessary because of this mineral withdrawal decision. The amendments ensure that the Forest Plans are consistent with the mineral withdrawal.

The mineral withdrawal decision and any decisions relating to the August 12, 1996 New World Mine Agreement are separate and distinct. However, the mineral withdrawal helps meet the intent of the New World Mine Agreement by ensuring that any property interests acquired from Crown Butte Mines Inc. are also withdrawn from mineral entry.

### **II. OVERVIEW OF THE DECISION AREA**

The mineral withdrawal area (area) is located in the Gallatin and the Custer National Forests near Cooke City, Montana. The area, adjacent to the northeast corner of Yellowstone National Park, is bordered on the west, north, and east by the Absaroka-Beartooth (A-B) Wilderness in Montana. Adjacent to the southern boundary is the North Absaroka Wilderness and a non-wilderness corridor along US 212 and the Clarks Fork of the Yellowstone River (Clarks Fork). The mountains within the area form three watersheds. The northern portion drains into the Stillwater River and the adjacent A-B Wilderness.





The southwestern portion drains into Yellowstone National Park via Soda Butte Creek, a tributary to the Lamar River. The southeast portion drains into the Clarks Fork of the Yellowstone River, a designated Wild and Scenic River located downstream from the withdrawal area. All three streams have eligible Wild and Scenic River segments either within or downstream from the area.

The area is highly valued for recreation and scenery. The Beartooth Scenic Byway traverses the area and provides access to the northeast entrance to Yellowstone National Park. The area serves as a portal to the A-B and North Absaroka Wilderness. Recreation and tourism are an important part of the area's economic base. Other important resources include threatened and endangered species and cultural values associated with the New World Historic District.

The area's mining history dates back to the late 1860's. The recently proposed plan to develop minerals at the New World Mine generated significant controversy over potential effects on water quality and resulting impacts to Yellowstone National Park. The area has not been included in previous wilderness bills, in part due to its mining history and potential. Portions of the area have high occurrence potential for gold, copper, silver, lead, and zinc, including both proven mineral reserves and sufficient indication that additional mineral resources may be discovered.

The area encompasses approximately 22,065 acres of National Forest lands. In addition, about 4,160 acres of private land, consisting primarily of patented mining claims, are interspersed throughout the area. Prior to September 1, 1995, 470 unpatented mining claims had been filed in the area.

### III. DECISIONS

**U.S. Department of the Interior:** It is the decision of the Department of the Interior to withdraw, subject to valid existing rights, approximately 22,065 acres of Federal land near Cooke City, Montana, as depicted on Map 1, for a 20-year period. (A complete legal description of the mineral withdrawal is contained in Appendix A of the Final EIS and in the Public Land Order.) The mineral withdrawal does not apply to private lands or Federal lands with valid existing rights in the area. However, the mineral withdrawal will apply to any lands or interests in lands in the area acquired in the future by the U.S. as long as the withdrawal is effective. Any acquired minerals are also withdrawn from hardrock mineral leasing under Section 402 of the Reorganization Plan of 1946 and 16 USC 520, or the Acquired Lands Mineral Leasing Act of August 7, 1947, depending upon how the lands are acquired. On Federal lands with valid existing rights, exploration and mining would be subject to Federal surface management regulations and other applicable State and Federal laws. (Section 204, FLPMA, 1976 43 USC 1714.)

**U.S. Department of Agriculture:** The Department of Agriculture concurs with the decision to withdraw from mineral entry, subject to valid existing rights, approximately 22,065 acres of National Forest System land near Cooke City. The Department of Agriculture amends Appendix IV, Mineral Withdrawals, of the Custer National Forest Plan, and Appendix D, Minerals Management, of the Gallatin Forest Plan to include the Cooke City Area Mineral Withdrawal. National Forest lands within the area on the Gallatin National Forest allocated to Management Area 24, minerals emphasis, are changed to Management Area 15, wildlife/recreation emphasis.

### IV. REASONS FOR THE DECISION

#### MINERAL WITHDRAWAL

Based on the analysis in the Cooke City Area Mineral Withdrawal EIS, the Department of the Interior has decided a mineral withdrawal is warranted to protect the outstanding, natural resources present in this area. The public comments and the description of resources in the EIS (Chapter 3, Affected

Environment) point out that this particular area provides a unique combination of special places and outstanding resource values important to citizens across the Nation. The EIS demonstrates that mineral activity, including the potential for large scale mines, would adversely impact the remote, rural character of the area, and places at risk scenic, social, and water-dependent resources in and near Yellowstone National Park.

President Clinton summarized concerns about mining in his remarks at Yellowstone Park on August 12, 1996:

"Mining jobs are good jobs, and mining is important to our national economy, and to our national security. But we can't have mines everywhere, and mines that could threaten a national treasure like Yellowstone -- that's too much to ask of the American people."

As pointed out in the EIS, the setting is adjacent to Yellowstone National Park, the A-B Wilderness, the North Absaroka Wilderness, and the Beartooth Scenic Byway. The area includes the headwaters of Outstanding Natural Resource Waters, including streams which flow through Yellowstone National Park and wilderness areas. Portions of the Clarks Fork River, Stillwater River, and Soda Butte Creek are either designated, or eligible, Wild and Scenic Rivers.

The Surface and Ground Water, Wetlands and Aquatic Resources sections in Chapter 3 of the EIS identify certain factors that contribute to mining-related risks to water quality and quantity of area streams. These factors include:

- potential for increases in acid-rock drainage above current levels;
- uncertainties associated with groundwater contamination and changes in flow which could adversely effect valuable headwaters, including those that flow into Yellowstone National Park, over a long period of time after active mining ceases;
- potential for increases in stream sedimentation;
- potential for failure of tailings impoundments and other facilities;
- potential for altered stream flows;
- difficulty of reclamation due to high elevation, short growing seasons, shallow fragile soils, and rugged topography;
- potential for avalanches, earthquakes, and floods to damage engineered structures resulting in release of environmentally harmful materials;
- the ability to treat all contaminated water that may surface and the length of time water treatment may be necessary; and
- high density of drainages and wetlands, and potential loss of wetlands.

As stated in the effects analysis for aquatic resources, with any mine, but particularly underground metalliferous mines with high acid-generating potential, there are risks and uncertainties associated with unforeseeable and uncontrollable ground or surface water contamination. While mining technology and pertinent laws and regulations can help reduce risks, some mining-related risks to area resources cannot be eliminated. Certain mining-related risks, such as those associated with tailings impoundments, are long-term in nature. The mineral withdrawal of these lands would reduce the mining-related risk to the physical and biological integrity of these valuable watershed headwaters.

The Failure Modes Effects Analysis (FMEA), Appendix H in the EIS, sets out a case study of certain types of mining-related risk to water and aquatic resources. The FMEA, prepared by an independent contractor, demonstrates that mining-related risk can be reduced but not eliminated. The risk of failure for certain mine facility components, such as tailings impoundments, increases with time. For example, during the post-mining/care and maintenance stage, the annual likelihood of failure of a facility was



addressed for a 1,000 year period. Over this period of time, even if the failure likelihood is rated low, a failure is very likely to happen at least once. Maintenance of residual mining facilities such as dams, diversions, and spillways would be required for a period of 1,000 years or longer. While such maintenance is straightforward, there is some uncertainty associated with the continuation of financial and legal bonding and the technical and management infrastructure over long periods of time. Therefore, the long-term risks posed by mining in this setting are not acceptable .

The EIS points out that waters that originate in the area flow into the surrounding A-B Wilderness, Yellowstone National Park, and the designated Wild and Scenic Clarks Fork of the Yellowstone River. Degradation of water quality for streams that flow into the adjacent wilderness or Yellowstone National Park is not permitted under Wyoming and Montana water quality regulations. However, achievement of these standards may be difficult given the mining-related risks summarized above. For example, groundwater quality effects are difficult to predict and may not be evident for several years after a mine is in operation. The length of time water treatment may be necessary is not known. The potential for difficult reclamation, acid-rock drainage, and failure of tailings impoundments all present unacceptable risks of water quality degradation.

The section on Surface and Ground Water, Wetlands and Floodplains in Chapter 3 of the EIS indicates that the area has a large and diverse wetland resource. Successful mitigation of effects to wetlands from mineral development would be difficult. For example, the analysis in the New World Mine EIS showed that all alternatives affect wetlands to some degree. Mining operations have the potential to fill area wetlands and floodplains with mining related activity such as road construction, mill sites, tailings impoundments, waste rock storage areas, etc. The area has very limited availability of appropriate wetland mitigation sites. The loss of wetlands known as fens (a herbaceous wetland supported by deep organic soil and upwelling of cold ground water) would be irreplaceable. The mineral withdrawal would help maintain area wetlands.

The aquatic resources section in Chapter 3 of the EIS identifies the potential effects of mining on fish and other aquatic life. The effects can generally be grouped into three main areas of concern; 1) reduced streamflow, 2) increased sediment delivery to streams, and 3) changes in water quality. These three factors may produce adverse effects alone, in combination, or cumulatively. Several streams within the withdrawal area are devoid of fish due to natural barriers or because of effects related to historical mining. Downstream from the area, the Stillwater River, the Clarks Fork River, and Soda Butte/Lamar River are important recreational fisheries. The withdrawal would help reduce the risk of additional mining-related damage to degraded streams and cumulative effects to aquatic resources downstream.

Public comments and the affected environment section of the EIS point out that the Cooke City area is a key part of the Greater Yellowstone ecosystem which offers spectacular scenery, abundant wildlife, and unique geologic features all within a vast, relatively undisturbed area. Consequently, the quality of outdoor recreation is very high. Maintenance of recreation resources in the area is important for both economic and quality of life reasons. Industrial activity such as a mine tends to dominate local settings potentially altering the "wildland" character that now exists in the local area. Road improvement, increased traffic, increased local population, and mining-related facilities result in a loss of the sense of isolation and remoteness in portions of the area. The withdrawal would help maintain the existing recreation setting and opportunities.

The Scenic Integrity section of the EIS states that a large part of the area has high scenic integrity, including roadless areas and lands adjacent to wilderness and Yellowstone National Park. Potential mineral-related development including facilities such as mills, stockpiles, tailings impoundments, workcamps, access roads, and heavy traffic on those roads would be visually inconsistent with the surrounding landscape. While some project effects can be mitigated with reclamation, others such as

tailings impoundments could have a long-lasting effect. Expectations for scenic integrity are high due to the Beartooth and Chief Joseph Scenic Byways, the surrounding wilderness, and Yellowstone National Park. The mineral withdrawal would help preserve the scenic integrity of the area.

Mining-related traffic would change the recreation experience on local roads, and ore trucks may be viewed as incompatible with expectations of visitors driving the Beartooth Scenic Byway and the Chief Joseph Scenic Byway. The mineral withdrawal would reduce the potential for mine-related traffic conflicts.

Tourists and outdoor recreationists are the largest source of Cooke City area business revenues. Together they account for 70 percent of the Cooke City area total business revenue. A commentor on the Draft EIS noted that "The natural beauty and productivity of the riversheds that begin high in the Absaroka-Beartooths are self-renewing resources that provide jobs and income in perpetuity." Although mining has the potential to create jobs and income, if it negatively impacts recreation, mining could be a detriment to the present tourism based economy. The mineral withdrawal may help maintain the current tourism based economy.

Mining would create jobs, income, and increase local government revenues. The Final EIS concludes that the level of economic impacts from mining would depend on the number, size, and type of mines developed. Mining could also increase economic diversity. (See discussion of economic impacts in Chapter 3 of the Summary and the Final EIS.) Costs to local governments would also increase with increased demand for services as workers move to the area. However, Montana county and local budgets may be balanced by increases in tax base or by offsets from large scale mines that are required by the Montana's Hard-Rock Mining Impact Statutes. In Wyoming this may not be the case. These Montana statutes do not apply to impacts in Wyoming where the majority of the new workers would be expected to reside. The Hard-Rock Mining Impact Act would also not apply to Montana counties if the impacts are caused by small scale mines. Despite the potential for economic benefits of mining, especially in Montana, county and local governments in Wyoming may experience budget shortfalls.

The EIS recognizes that mining may provide benefits to the local economies in terms of employment, wages, and government revenues. As President Clinton has stated, mining jobs are good jobs and the minerals industry is important to the United States both economically and strategically. But this does not mean that mineral development is appropriate everywhere. Consideration has been given to the potential economic impacts of mineral development in the Cooke City area in relation to the nationally significant natural resources present in the area and vicinity. Based on this consideration and the strong local and regional support for the withdrawal, withdrawing this area from operation of the mining laws is appropriate in order to ensure protection of these resources from the risk of mining-related development and impacts.

The cultural resource section in Chapter 3 of the EIS states that future mining could affect the integrity of the New World Historic District, listed on the National Register of Historic Places. Impacts could include physical damage to the sites, impact to the character of the Historic District, and introduction of visual and auditory elements out of keeping with the Historic District. Mitigation could reduce or eliminate adverse effects to the integrity of the Historic District and to significant sites. Any loss of these resources, however, would be an irreversible commitment of resources. The mineral withdrawal would help protect the significant historic and prehistoric sites in the area.

The Wildlife section in Chapter 3 of the EIS points out that the withdrawal area is rich in terms of biodiversity. The area has few human inhabitants and is adjacent to large expanses of undeveloped land. The area is noted for the number and diversity of species present. Mineral development would result in habitat disturbance, additional road access and traffic, and increases in local human population.



The potential effects on species would vary depending on the location and extent of future development. Mining would likely result in reductions to grizzly bear habitat, and could lead to increases in grizzly bear mortality due to increased human presence. The mineral withdrawal would help protect core grizzly bear areas and other wildlife habitat.

The mineral withdrawal would help meet the intent of the New World Mine (NWM) Agreement by ensuring that acquired lands and unpatented mining claims are withdrawn from mineral entry.

As President Clinton said on August 26, 1995, "We have to do everything we can to protect parks like Yellowstone. They're more precious than gold."

## **CONCURRENCE BY THE DEPARTMENT OF AGRICULTURE**

The Department of Agriculture concurs with the mineral withdrawal of approximately 22,065 acres of Custer and Gallatin National Forest lands near Cooke City, Montana. A mineral withdrawal is appropriate to help protect the outstanding natural resources on National Forest lands in this area.

## **FOREST PLAN AMENDMENTS**

As Under Secretary for Natural Resources and the Environment, it is my decision to amend the Custer and Gallatin Forest Plans to ensure that the Forest Plans reflect the intent of the mineral withdrawal decision. National Forest lands on the Gallatin National Forest within the withdrawal area formerly managed with emphasis on minerals now have an emphasis on wildlife and recreation. No change in management area direction is necessary for the Custer Forest Plan as current direction is compatible with the mineral withdrawal.

In accordance with 16 USC 1604(f)(4), 36 CFR 219.10, FSM 1922.5, and FSH 1909.12 Section 5.32, I have determined that the amendments to the Gallatin and Custer National Forests' Land and Resource Management Plans (Forest Plans) do not constitute significant changes in the Plans. This determination is based on the following criteria:

- a. Timing. The timing factor examines at what point, over the course of the Forest Plan period, the Plan is amended. Both the age of the underlying document and the duration of the plan amendment are relevant considerations. Appendix D of the Gallatin Forest Plan and Appendix IV of the Custer Forest Plan are listings of National Forest lands which are withdrawn from mineral entry. Amendments to these sections will update these lists to include the Cooke City Area Mineral Withdrawal. The decision to change 1,439 acres on the Gallatin National Forest from management area (MA) 24 to MA 15 makes the management goal for this area consistent with the mineral withdrawal. The timing of this amendment is not significant in terms of the remaining effective period of the Forest Plans.
- b. Location and Size. The relevant consideration here is "the relationship of the affected area to the overall planning area" (FSH 1909.12 Sec 5.32(d)). As further discussed in FSH 1909.12, Sec 5.32 (d), "the smaller the area affected, the less likely the change is to be a significant change in the Forest Plan." The amendments to Appendix D of the Gallatin Forest Plan and Appendix IV of the Custer Forest Plan simply update the lists of National Forest lands which have been withdrawn from mineral entry and, therefore, this criteria is not relevant to these amendments.

The plan amendment to change MA 24 to MA 15 will affect 1,439 acres out of the approximately 1.8 million acre Gallatin National Forest. Therefore, it is my determination that this is not a significant change in the Gallatin Forest Plan. Moreover, not amending the Forest Plan would not make these available for mineral entry; it would simply leave the Forest Plan inconsistent with management of the mineral estate. This plan amendment has no effect on management of mineral resources throughout the rest of the Gallatin National Forest.

c. Goals, Objectives, and Outputs. The goals, objectives, and outputs factor involves the determination of "whether the change alters the long-term relationship between the level of goods and services in the overall planning area" FSH 1909.12, Sec 5.32(c). This criterion concerns analysis of the overall Forest Plan and the various multiple-use resources that may be affected. The guidance in FSH 1909.12, Sec 5.32(c) explains: "in most cases, changes in outputs are not likely to be a significant change in the Forest plan unless the change would forego the opportunity to achieve an output in later years."

Forest Plans and objectives for minerals management do not lead to targeted outputs; thus, these amendments do not have any effect on outputs described in the Forest Plans.

Although the change from MA 24 to MA 15 means that the management goal for the 1,439 acres affected by this amendment will no longer be the orderly exploration and development of minerals, this goal was no longer achievable due to the withdrawal action. Also, these amendments do not change forest-wide goals and objectives for minerals management on the Gallatin and Custer National Forests.

d. Management Prescription. The management prescription factor involves the determination of (1) "whether the change in a management prescription is only for a specific situation or whether it would apply to future decisions throughout the planning area" and (2) "whether or not the change alters the desired future condition of the land and resources or the anticipated goods and services to be produced" FSH 1909.12, Section 5.32(d).

The amendment changing MA 24 to MA 15 in the withdrawal area is only for the specific situation evaluated in the Cooke City Area Mineral Withdrawal EIS and does not apply to future decisions throughout the planning area. This amendment also does not alter the desired future condition of the land and resources or the anticipated goods and services to be produced.

## **V. SUMMARY OF ALTERNATIVES CONSIDERED**

The alternatives considered in detail represent two different options for the management of hardrock mineral resources on Federal lands. The effects of each alternative in terms of lands available or closed to mining vary depending on the status of the New World Mine Agreement. Therefore, each alternative is evaluated using two Scenarios: the first Scenario assumes the NWM Agreement **is not** implemented, and the second Scenario assumes the NWM Agreement **is** implemented.

### **Alternative A: No Mineral Withdrawal**

This alternative is referred to as the "No Action" Alternative because no action would be taken to withdraw the area from mineral location and entry. It would continue the Federal minerals management that existed prior to September 1, 1995, when the area was closed to location of new mining claims for a two-year period.

Under Alternative A, Federal lands (approximately 22,065 acres) would remain open and available for mineral exploration and development under the General Mining Law of 1872 (1872 Mining Law). Upon discovery, mining claims could be located for minerals considered to be "locatable" (such as gold, copper, silver, lead, zinc, and platinum).

The Custer and Gallatin Forest Plans would not be amended.



## **Alternative A Scenarios**

### ***Alternative A: No Mineral Withdrawal; Scenario A-1: New World Mine Agreement Not Implemented.***

Under this scenario, approximately 22,065 acres of Federal land in the area remain available for mining, and up to 4,160 acres of private land are available for mineral development. The mineral development forecast assumes there is a potential for up to three mines and 10 exploratory drilling operations.

### ***Alternative A: No Mineral Withdrawal; Scenario A-2: New World Mine Agreement Implemented.***

Under this scenario, 17,820 acres of Federal land would be available for mineral location and entry. The interests acquired by the United States under the NWM Agreement, include up to 1,740 acres of private mineral estate and 4,180 acres of unpatented mining claims. For purposes of the analysis, it is assumed that lands acquired would be withdrawn through subsequent National Environmental Policy Act analysis, or by legislation.

Mineral development would be less likely in this scenario, given that most of the area of high mineral occurrence is not available for mineral entry. The mineral development forecast assumes the potential (low probability) of one mine, and five exploratory drilling operations.

## **Alternative B: Mineral Withdrawal Implemented**

Alternative B represents the proposed mineral withdrawal. The withdrawal would not allow individuals to locate new claims in the area for Federal hardrock minerals, including any minerals acquired by the Federal government in the future. In addition, leasing of Federal hardrock minerals would not be permitted.

In this alternative, Federal minerals on approximately 22,065 acres would be withdrawn from location and entry for a period of 20 years. The mineral withdrawal would not apply to private lands. However, if any private lands or minerals in the area are acquired by the Federal government in the future, they would be subject to the withdrawal. The mineral withdrawal would be subject to review at the end of 20 years.

The Gallatin and Custer National Forest Land and Resource Plans (Forest Plans) would be amended to be consistent with the terms and conditions of a mineral withdrawal.

## **Alternative B Scenarios**

### ***Alternative B: Mineral Withdrawal Implemented; Scenario B- 1: NWM Agreement Not Implemented.***

Approximately 4,240 acres of existing unpatented mining claims on Federal land (assuming claims are valid) and 4,160 acres of private land would remain available for mining activities. The mineral development forecast used to estimate environmental effects assumes there is potential for up to three mines and seven exploratory drilling operations.

### ***Alternative B: Mineral Withdrawal Implemented; Scenario B-2: NWM Agreement Implemented.***

The interests acquired by the United States under the NWM Agreement, including up to 1,740 acres of private mineral estate and 4,180 acres of unpatented mining claims, would not be available for mining.

Approximately 60 acres of unpatented mining claims on Federal land and 2,420 acres of private land remain available for mineral development. This scenario would have the least potential for mineral development of the four scenarios examined.

## **Environmentally Preferred Alternative**

Alternative B, Mineral Withdrawal, is the environmentally preferred alternative. This alternative best protects, preserves and enhances historic, cultural and natural resources.

## **Alternatives Eliminated From Detailed Study**

Some additional alternatives surfaced during the scoping process. The following alternatives were considered but not analyzed in detail:

- Reduce the size of the mineral withdrawal to a quarter mile buffer adjacent to Yellowstone National Park.
- Expedite validity reviews of existing claims.
- Reduce the size of the mineral withdrawal to exclude the area with the highest mineral development potential.
- Extend the time period of the proposed withdrawal beyond 20 years.
- Expand the withdrawal area to include the corridor along the Clarks Fork of the Yellowstone River.

These alternatives were not analyzed in detail because they were either beyond the scope of this analysis, inconsistent with existing laws and regulations, or have effects similar to an alternative considered in detail. A more detailed discussion of why these alternatives were eliminated from detailed study is provided in the Final EIS.

Various other alternatives were also suggested during the comment period for the Draft EIS:

- withdrawing areas along streams and drainages,
- establishing a non-partisan panel for management of the proposed withdrawal area,
- establishing protective corridors along streams and forming a nonpartisan panel to achieve "environmental protection and resource production,"
- deferring the withdrawal until all uncertainties associated with the NWM Agreement are resolved,
- withdrawing only those areas which are in the area of highest mineral development potential but outside the areas that might be used for the New World Project,
- emphasizing reclamation of historic mining activities,
- withdrawing that area that drains into Yellowstone National Park,
- withdrawing watersheds and drainages capable of sustaining fisheries, and
- withdrawing watersheds and drainages capable of sustaining fisheries, and withdrawing a 250 foot protective corridor along other perennial drainages.

All of these alternatives were carefully considered. Many of these alternatives were mapped to determine what lands would be available for mining activities. After available areas were identified, a foreseeable mineral development scenario was predicted for each alternative. These new scenarios were compared to the scenarios that were analyzed in detail. If the land available for mining or the mineral development forecast was similar to one of the scenarios that was already analyzed, the impact analysis would also be very similar. Therefore, the new alternative was not analyzed in further detail. Some alternatives were not analyzed in detail, because they did not provide a basis for analysis or the

decision to be made was beyond the scope of this analysis. The reasons for not analyzing these alternatives in detail are presented in the Final EIS.

## **VI. ISSUES AND PUBLIC PARTICIPATION**

### **Public Comment**

Public involvement included publication of notices in the Federal Register, news releases to area newspapers, scoping letters, public meetings in area communities, and briefings to interested parties, local and state officials. Public involvement is summarized in Chapter 4, Consultation and Coordination, and in Appendix I of the EIS.

### **Issues**

The setting in which the proposed mineral withdrawal occurs contributes to the breadth and intensity of public opinion about future minerals management in this area. Comments received during scoping addressed what the public perceives as nationally and internationally recognized resources in and around the area.

While the proposed withdrawal action is not proposed within Yellowstone National Park, there is, as indicated in many of the comment letters, a strong attachment between the Cooke City-Silver Gate, MT, area and the Park. Numerous letters addressed the “high quality” of the outdoor experience currently offered in the Cooke City-Silver Gate area. There was concern expressed about the potential impacts of mining on the tourism-dependent economies of Cooke City and Silver Gate.

Other commentors were similarly strong in voicing their concern about “locking out” mineral development in the Cooke City area. They commented about the high potential for mineral occurrence, discovery, and development, as evidenced by the mining of gold, silver, copper, and other important minerals that has occurred in the area since the late 1800’s. They also pointed out the economic benefits to the local and State economy and the importance of the jobs that would be provided by mining in the area.

The following Issues were identified through scoping meetings and from a content analysis of approximately 190 letters received from individuals, organizations, and agencies during the scoping period:

**Water Quality and Quantity** - What is the potential for the proposed mineral withdrawal to maintain surface and ground water quantity and quality?

**Wetlands** - What is the potential for the proposed mineral withdrawal to protect and maintain the amount, function, and values of wetlands and waters of the U.S. that could otherwise be affected by mining?

**Aquatics** - What is the potential for the proposed mineral withdrawal to protect, maintain or improve habitat for fish and other aquatic life that could otherwise be affected by mining?

**Recreation, Yellowstone National Park, and Special Areas** - What is the potential for the proposed mineral withdrawal to protect scenic, aesthetic, and recreation values within the area and in the adjacent Yellowstone National Park, Absaroka-Beartooth Wilderness, the North Absaroka Wilderness, and designated and eligible wild and scenic rivers from the effects of mining?



**Land Uses** - What is the potential for the proposed mineral withdrawal to affect uses of private land, unpatented mining claims, and future mining including the New World Mine? How does the mineral withdrawal affect the availability of minerals in the area?

**Economics** - What are the economic implications of the proposed mineral withdrawal?

**Social** - What is the potential for the proposed mineral withdrawal to preclude changes in population, in the need for additional housing and services, and to the overall quality of life that may result from mining?

**Cultural** - What is the potential for the proposed mineral withdrawal to protect the area's cultural resources that could otherwise be affected by mining?

**Wildlife** - What is the potential for the proposed mineral withdrawal to protect or maintain wildlife habitat, particularly grizzly bear habitat and populations, that could otherwise be affected by mining?

## **VII. FINDINGS**

### **Compliance with Current Laws and Regulations**

The US Fish and Wildlife Service concurred with the determination that the mineral withdrawal is not likely to adversely affect the threatened grizzly bear, the threatened bald eagle, the endangered peregrine falcon, or the area's non-essential, experimental gray wolf.

The Montana State Historic Preservation Office concurred with the analysis regarding the potential effects to cultural resources. The mineral withdrawal, combined with the New World Mine Agreement, appears least likely to adversely effect cultural resources because there will be little or no mining-related surface disturbance in the area.

Mineral withdrawals are authorized under Section 204 of the Federal Land Management and Policy Act of 1976, with implementing regulations at 43 CFR 2310. The Cooke City Area Mineral Withdrawal and the associated Final EIS are in conformance with these laws and regulations.

### **Consistency with Forest Plans**

The National Forest Management Act requires a determination of whether a proposed amendment would result in a significant change in the Forest Plan (36 CFR 219.10(f)). Amendments to the Custer and Gallatin Forest Plans are not considered significant, as discussed previously under "Forest Plan Amendments," (pp 7-8). Management area direction on the Custer National Forest is consistent with the mineral withdrawal. Appendix IV, Mineral Withdrawal, Custer Forest Plan,, would be amended to include the mineral withdrawal.

The amendment to the Gallatin Forest Plan management area changes current direction to reflect that lands subject to the withdrawal are no longer open to mineral entry. The amendments do not change management emphasis or level of goods and services to be provided for any other National Forest resources. Appendix D, Minerals Management, Gallatin Forest Plan, would be amended to include the mineral withdrawal.

With the Forest Plan amendments implemented with this Record of Decision, the mineral withdrawal is compatible with the management direction for this area identified in the Custer and Gallatin National



Forest plans. An emphasis on minerals management is no longer appropriate in an area withdrawn from mineral entry.

## **VIII. IMPLEMENTATION OF THE DECISIONS**

**Mineral Withdrawal** - The mineral withdrawal is effective when the Public Land Order, signed by the Secretary of the Interior, is published in the Federal Register.

**Forest Plan Amendments** - Amendments to the Custer and Gallatin Forest Plans are effective on the date the Record of Decision is signed by the Under Secretary of Agriculture for Natural Resources and the Environment.

## **IX. CONSULTATION AND COORDINATION**

Chapter 4 of the EIS summarizes consultation and coordination that has occurred throughout the analysis. Consultation with other agencies and public involvement has been an important part of this withdrawal process. During the entire NEPA process, 391 responses were received from individuals, businesses, counties, groups, elected officials, and agencies. Formal public involvement activities included 10 agency sponsored meetings in Montana and Wyoming with an attendance of over 370 people; numerous briefings for State, County, and other Federal entities; and many personal contacts.

Federal agencies that commented or were consulted include the Environmental Protection Agency, Yellowstone National Park, Fish and Wildlife Service, Army Corp of Engineers, and the Geological Survey. Montana state agencies that commented or were consulted include the Office of the Governor, Department of Environmental Quality, Department of Fish, Wildlife and Parks, the State Historic Preservation Office, and the Department of Natural Resources and Conservation. Wyoming state offices include the Office of the Governor, Department of Game and Fish, Department of Environmental Quality, and the State Planning Coordinators Office. County Commissioners from Carbon, Gallatin, Park, Stillwater, Sweet Grass, and Yellowstone Counties in Montana, and Park County in Wyoming, were consulted. Five American Indian Tribes with an interest in this area were contacted - the Crow, Shoshone-Bannock, Shoshone, Arapahoe, and Northern Cheyenne.

## **X. PLANNING RECORDS**

Bureau of Land Management  
Montana State Office  
222 N. 32nd St.  
Billings, MT 59101

## **XI. APPEAL RIGHTS**

The decisions contained in this Record of Decision constitute the final administrative action of the Secretary of the Interior and the Secretary of Agriculture. They are not subject to administrative review under the applicable regulations of either Department.

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